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**\*OGC Has Reviewed\***

Chief, Medical Services

11 May 1949

Office of the General Counsel

Pre-employment and Other Medical Examinations

1. In regard to the physical standards established under Section VIII, "Mental Disease or Nervous Breakdown," 3. "Psychoneuroses", it is noted that an applicant with a history of psychoneurosis may receive an appointment provided it is determined that he can perform his duties satisfactorily without hazard to himself, others, or the Agency. As a condition to acceptance, it must be established that the person has shown an "adequate adaptation to environmental conditions for a period of not less than a year following a diagnosis of a mental condition or a hospitalization for the same." It goes on to state that: "Such a ruling shall be extended to apply to persons entitled to veteran preferences."

2. Since some future question may be raised in regard to veterans for purposes of the record we feel that this statement is perfectly proper as an indication of our policy that veterans will receive the privileges accorded them by statute. The "Veterans' Preference Act of 1944" grants a 5-point preference to a veteran simply on the basis of his service and a 10-point preference to a veteran who can establish the present existence of a service-connected disability. Requirement for an examination is established under the Act. However, the standards set by this Agency are not in conflict with those of the Civil Service Commission since our employees come within the excluded Schedule A classification. In the light of a recent opinion of the Attorney General dated 29 July 1946, it appears proper for the organization to set a more stringent gauge than that of the Civil Service Commission. Thus, we may require one year's successful adaptability to environment for veterans even though Civil Service limits this restriction to non-veterans. In the opinion, the Attorney General states, in reference to the Veterans' Preference Act of 1944, that "there is nothing in the statute or its legislative history which indicates a desire to transfer all authority to describe physical standards to the Civil Service Commission." And where a conflict arose regarding two positions outside the classification of Civil Service, the decision of the controlling agency was accepted by the Commission (idem p.6).

3. Section 5 of the Act provides that an examining agency may waive the physical requirements provided the veteran is physically able to discharge the duties for which the examination is given. Although it appears that the examining agency may establish its own criteria for physical acceptance when the position is outside the normal Civil Service scope, the Attorney General states that the Commission is principally concerned with administration of the Veterans' Preference Act and its opinion in regard to some general conditions for waiver should be regarded. In this respect, it is noted that the Commission believes that uniform standards should be applied to all veterans in regard to waivers for age, height, and weight.

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The waiver of any other physical deficiency can be based on the facts peculiar to the individual situation.

4. We may, of course, encounter the anomalous situation where a veteran entitled to a 10-point preference is not acceptable to the Agency, since the disability entitling him to the preference will disqualify him for employment.

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CNR:msk

copy in 341, Medical Care

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